

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EUGENE WILBORN
910 BADGER RD
MADISON, WI 53723

Plaintiff,

Case No. 13-CV-00661

v.

KRAFT FOODS GLOBAL INC.
910 MAYER AVENUE
MADISON, WI 53704

Defendant.

COMPLAINT

Plaintiffs, Eugene Wilborn, through his attorneys, Arellano & Phebus, S.C., by Victor M. Arellano and Douglas J. Phebus, allege as follows:

I.
NATURE OF THE CASE

1. The Plaintiff, Eugene Wilborn, (hereinafter "Miller"), is an African American Male. He is a U.S. citizen who is employed by Kraft Foods Global Inc. (a/k/a Oscar Mayer). Miller's position is located at 910 Mayer Avenue, Madison, Wisconsin 53704. He brings this action pursuant to 42 U.S.C § 1981, et seq.

2. The plaintiff seeks redress for acts and/or omissions taken by defendants' agents, representatives, and administrators who discriminated against plaintiff with respect to terms and conditions of his employment including the termination of Wilborn.

3. Plaintiff seeks compensation and relief in the form of compensatory damages, wage loss and benefits, front pay, punitive damages, attorney's fees and costs as prescribed by 42 U.S.C. § 1981, et seq.

II.
JURISDICTION & VENUE

4. The United States District Court for the Western District of Wisconsin has jurisdiction over this matter by virtue of the statutory power vested upon it by the U.S. Congress and 42 U.S.C. § 2000-3 (Title VII) and 42 U.S.C. § 1981.

5. Venue lies within the Western District of Wisconsin because all events material to the Complaint occurred within the jurisdictional area of this Court; namely, the County of Dane, State of Wisconsin.

III.
THE PARTIES

6. Plaintiff Eugene Wilborn is an African American male. Wilborn is a United States Citizen, who currently resides at 2654 Hoard Street, Madison, Wisconsin 53704.

7. Kraft Foods Global Inc. (hereinafter "Kraft") is a foreign corporation doing business in Wisconsin. Kraft has a mailing address of 910 Mayer Avenue, Madison, Wisconsin 53707. Kraft is an "employer" as defined by 42 U.S.C. § 2000e-3 (Title VII) and 42 U.S.C. § 1981.

IV.
CLAIMS

8. The plaintiff re-alleges the preceding paragraphs 1-7 if as set forth in full herein.

9. Eugene Wilborn was improperly tested under the company's drug test on January 13, 2011, when similarly situated co-employees were not drug tested under

similar circumstances. Wilborn was involved in an incident which caused minimal damage to company property. The damage was underneath the \$500 threshold under the drug testing policy.

10. Wilborn passed the urine drug screening but was terminated by the company for violation of its drug test policy. Similarly situated co-employees were not terminated under similar circumstances

11. Plaintiff asserts that defendant has engaged in a prohibited practice in violation of 42 U.S.C. § 1981 which prohibits discriminating as to the terms and conditions of their employment based on race. He was subjected to a tangible employment action, termination, which resulted in lost wages and pain and suffering.

12. Plaintiff asserts that as a result of the alleged wrongful conduct on the part of the Kraft he suffered wage loss, loss of opportunities and benefits, suffered emotional upset and humiliation, and have incurred legal fees and costs all of which he is entitled to recover pursuant to 42 U.S.C. § 1981.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- A. Compensatory damages including but not limited to lost wages and benefits;
- B. Compensatory damages for the emotional pain, suffering, inconvenience, and mental anguish, and
- C. Liquidated damages, punitive damages, future damages, front pay, costs, and attorney's fees.

PLAINTIFF DEMANDS A JURY OF TWELVE.

Dated this 18th day of September, 2013.

ARELLANO & PHEBUS, S.C.
Attorneys for Plaintiffs.

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